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Letter dated 24 October 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 18 July 2003 (S/2003/743).

The Counter-Terrorism Committee has received the attached third report from Yemen submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 21 August 2003 from the Permanent Representative of Yemen to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to enclose herewith the third report of the Government of Yemen on anti-terrorism measures.

(*Signed*) Abdullah M. **Alsaidi**
Ambassador
Permanent Representative

Annex to the letter dated 21 August 2003 from the Permanent Representative of Yemen to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

[Original: Arabic]

Response to paragraph 1.2

Article 16 of Act No. 1 of 2001 on domestic associations and institutions provides as follows:

"The Ministry and its Offices shall keep a copy of documents and papers concerning the establishment of registered associations and institutions, shall publish them, and concerning accounting and record-keeping and related procedures."

The rules specify the types of records and data and record-keeping and disposal procedures. Article 23 (a) of the same Act specifies as follows:

"(a) Any domestic association or institution, with the knowledge of the Ministry, may collect assistance in kind or in cash from abroad from a foreign national or a foreign entity, or from any representative of them in the country. They may also, with the knowledge of the Ministry, send part of the said assistance abroad to persons or organizations for humanitarian purposes.

"(b) Any domestic association or institution, with the approval of the Ministry, may engage in any activity (humanitarian activities of a charitable nature in which such associations are officially permitted to engage) at the request of or at the behest of a foreign entity."

Moreover, Act No. 35 of 2003 on combating money-laundering has recently been promulgated. Article 2 of the Act defines money-laundering as: "Any act entailing the acquisition, possession, disposal, deposit, exchange, investment or transfer of funds for the purpose of concealing the true source of funds arising from offences specified in article 3 of this Act." Article 3 of the Act specifies that money-laundering is an offence punishable under the Act and that:

"A person shall be deemed to be a perpetrator of the act of money-laundering who commits, participates in, assists in, instigates or condones:

(a) Any offence involving funds arising from the commission of one of the following offences:

(i) The offences specified in the Act on combating kidnapping and armed interception;

(ii) Theft, misappropriation or seizure of public funds by deception, bribery or breach of trust;

(iii) Forgery or counterfeiting of official seals, currency or public documents;

(iv) Seizure of private funds punishable under the Code of Criminal Procedure or the Penal Code;

(v) Smuggling;

(vi) Illegal import of or trafficking in armaments;

(vii) Cultivation or manufacture of or trafficking in drugs, as well as the production of or trafficking in alcoholic beverages, or other activities prohibited by law.

(b) Any of the following acts arising from any of the offences specified in paragraph (a):

(i) Concealment of the true source of illegal funds or providing a false justification of such funds;

(ii) Transfer or exchange of funds knowing that they are illegal, for the purpose of concealing or misrepresenting their origin or assisting a person to avoid punishment or liability;

(iii) Ownership, possession or utilization of illegal funds or using such funds to purchase convertible or non-convertible currency."

The International Convention for the Suppression of the Financing of Terrorism is still being considered by the House of Representatives and the competent authorities will adopt a series of implementation measures after it has been ratified.

Response to paragraph 1.3

The Republic of Yemen has taken a number of legislative and regulatory measures, as follows:

(i) Promulgation of Act No. 35 of 2003 on combating money-laundering (5 April 2003) which requires financial institutions and other professions involved in financial transactions (banks, currency exchanges, finance companies, insurance companies, stock and securities companies, finance leasing and real estate companies):

- Not to open or hold accounts in the name of individuals without checking on them through official documents concerning them and retaining copies thereof;
- Not to deal with legal persons without checking up through official documents concerning them and keeping a certified true copy thereof;
- To retain all documents relating to clients and their financial transactions or commercial or financial deals, whether domestic or foreign, for a period of not less than five years from the date of conclusion of the transaction; such documents must be produced at the request of the money-laundering intelligence unit of the Bank Monitoring Section of the Central Bank, under the supervision of the Governor;
- Financial institutions are also obliged to set up systems and rules for investigation and internal monitoring to prevent money-laundering transactions in accordance with the provisions of this act and of other related acts and with the assistance of the money-laundering intelligence unit.

(ii) Under Act No. 35 of 2003 on money-laundering, the Central Bank established the money-laundering intelligence unit by virtue of decision No. 48 of 2003, promulgated by the Governor of the Bank on 13 April 2003, which specified the functions of the unit;

(iii) The Governor of the Central Bank also promulgated decision No. 49 of 2003 setting up the money-laundering intelligence unit (13 April 2003) comprising experienced staff of the bank representing both sides (monitoring and legal).

Response to paragraph 1.4

With respect to the steps that may be taken by Yemen to freeze deposits held in private banks and financial institutions in Yemen at the request of another State, where such deposits are held within its jurisdiction, by residents or non-residents, both individuals and entities, suspected of having terrorist links, Act No. 35 of 2003, chapter 5, provides for international cooperation and the exchange of information and the handing over of non-Yemeni offenders. Article 16 of the Money-Laundering Act specifies as follows:

"In conformity with the provisions of this Act and subject to the agreement of the judiciary, the Committee may, on the basis of an official request from a judicial authority in any other State, provide such judicial authority with information concerning a transaction specified in the request relating to money-laundering, provided there is in existence a bilateral convention regulating the matter."

The Act permits the Committee against Money-Laundering, on the basis of a definitive judicial ruling stemming from another State in accordance with a bilateral convention regulating the matter, to request the Yemeni judicial authorities, in accordance with the laws in force, to trace, freeze or seize funds, assets and their related earnings connected with money-laundering offences, provided the judicial authority takes a decision on the request.

Enforcement of an order of the Central Bank of Yemen to freeze terrorism-related funds or assets in a financial institution in Yemen does not take a great deal of time because it is a precautionary measure: the Bank notifies the Prosecutor General and the latter applies to the President of the competent court for a precautionary restraining order. The Prosecutor General is also entitled to take precautionary measures pending the investigations and court proceedings.

Response to paragraph 1.5

In cases where there is no bilateral or multilateral convention with Yemen, if information or data reach the competent authorities of the Republic of Yemen concerning the possibility of a terrorist offence in the territory of one or more States or against their citizens or residents, Yemen notifies such State of the information or reports available to it concerning the possibility of a terrorist offence. This is done rapidly through the diplomatic channels that are used to submit notifications and reports, and through other channels, in order to convey the information. Where there is security cooperation through a bilateral convention between Yemen and another State, the information is directed to the competent body for combating terrorism in the State whose interests and population are targeted.

Response to paragraph 1.6

The Government of the Republic of Yemen has addressed this aspect through bilateral conventions with a number of fraternal and friendly States; these provide for the exchange of information and for cooperation on not using the territory of either State for the commission of terrorist acts.

Response to paragraph 1.7

The Republic of Yemen offers reciprocal assistance in criminal investigations and criminal proceedings to States that are not parties to the Arab Convention for the Suppression of Terrorism. This is done through bilateral conventions concluded with certain States.

Mutual assistance restricted to the implementation of Security Council resolution 1373 (2001) of 28 September 2001 is offered to States that are not parties with Yemen to any counter-terrorism convention.

Response to paragraph 1.8

(a) The Constitution has provided for measures of ratification or accession measures by the Republic of Yemen to international conventions in the following articles:

Article 91 which provides as follows:

> "The House of Representatives shall ratify international political and economic treaties and conventions of a general nature, of whatsoever form or level, and in particular those connected with defence, alliance, truce, peace or border alterations, and those which involve financial commitments by the State or for which their implementation requires the enactment of a law."

Article 118, paragraph 13, of the Constitution empowers the President of the Republic (may God preserve him) to ratify agreements that do not require the approval of the House of Representatives, if approved by the Council of Ministers.

Similarly, article 135 (d) of the Constitution provides as follows:

> "The Council of Ministers shall approve treaties and conventions before submitting them to the House of Representatives or the President of the Republic, according to the responsibilities of each."

(b) We wish to offer the following explanation with respect to the three universal conventions relating to terrorism. These conventions have been approved by the Council of Ministers (the executive authority of the Republic of Yemen) and have been transmitted to the House of Representatives. On completion of the constitutional and legal procedures required for accession, consideration will be given to the measures that have to be taken in the context of the national legislation consistent with the texts of these conventions. When these measures are taken, the Republic of Yemen will notify the Counter-Terrorism Committee in an official memorandum.

Response to paragraph 1.9

The Republic of Yemen has already provided the Security Council Committee established pursuant to 1373 (2001) concerning counter-terrorism with two detailed reports setting out the procedures and measures taken by the Government to combat terrorism in the light of the resolution. Moreover, in the two reports referred to, Yemen has already responded in detail to all the questions sent to it by the Counter-Terrorism Committee. Those responses were accompanied by detailed texts of the laws in force in the Republic of Yemen such as the Code of Criminal Procedure (Act No. 13 of 1994 and Act No. 24 of 1998 on combating, kidnapping and armed

interception), the Act regulating the carriage of firearms, munitions and explosives (No. 409 of 1992) and Act No. 47 of 1991 concerning the entry and residence of aliens, and so forth.

The Committee may therefore refer for additional information to the two reports submitted by the Government of the Republic of Yemen concerning measures to combat terrorism. However, the Republic of Yemen remains entirely ready to answer any questions to which the Committee considers it important to have responses and is prepared to take advantage of advice from the Committee's experts to cover any shortcomings in its national legislation to address the challenges of the phenomenon of terrorism.